# MINUTES OF THE PRIVATE PROTECTIVE SERVICES BOARD MEETING October 17, 2008

HOLIDAY INN BROWNSTONE 1707 HILLSBOROUGH STREET RALEIGH, NC 27605

## **BOARD MEMBER PRESENT**

James Stevens
Berkley Blanks
David Grimes
Brenda Bishop
Ron Burris
Bill Booth
Mack Donaldson
Steve Johnson
Richard Jenkins
Jimmy Ashe
Sally Pleasant
David Pendry

Richard Allen

## **STAFF PRESENT**

Terry Wright - Director
Anthony Bonapart – Deputy
Director
Larry Liggins – Field Services
Supervisor
Charles McDarris - Attorney
Joyce McClure – Board Secretary
Susan Harrison – Licensing
Assistant
Kim Odom - Investigator

## **GUEST PRESENT**

David Arndt Larry Flannery Ruth Reynolds Sybil Richards Bill Dover Jeff Kiker Monty Clark Chris Ruhlman Leo Treprenier Nick Nicholson Bob Forsyth Audra Coleman Mike Michniewicz Dorian Dehnel Blake Austenen John McCracken Glen Barnette Havden Church Mike Grambrill Randall W. Butler Tom Rose Chris Mauner Scott Siam Kevin Floyd **Greg Scott** 

Chairman Allen called the October 17, 2008 Private Protective Services Board meeting to order at 9:00 a.m. Mr. Allen welcomed all guests and requested they introduce themselves.

Attorney Charles McDarris explained the State Ethics Law which addresses the ethics of public officials. This Order states specifically that if any Board Member has any conflict of interest, potential conflict of interest, or the appearance of a conflict, he or she should remove themselves from deliberation and vote on that matter and so state on the record.

## **GOOD OF THE ORDER:**

Mr. Monty Clark for NCAPI, introduced Mr. Greg Scott the new President of the World Association for Detectives (WAD). Mr. Scott addressed the Board regarding the World Association for Detectives explaining the functions of WAD and advising that they have over 1,000 members in 77 countries. He further advised that many state and countries are using North Carolina as a model when creating laws to govern the industry.

Mr. Clark then recognized Mr. Bob Forsyth and Mr. Allen as long time members of the NCAPI.

## **APPROVAL OF THE AUGUST 15, 2008 MEETING MINUTES:**

MOTION BY MR. GRIMES TO APPROVE THE MINUTES AS PRESENTED SECONDED BY MRS. BISHOP, MOTION CARRIED.

#### **SCREENING COMMITTEE REPORT:**

Mrs. Bishop reported that the Screening Committee met on Thursday October 16, 2008 from 8:00 a.m. until 12:30 PM and 1:30 PM to 2:00 PM to review a total of 77 applications with 3 denials and 4 deferred. The remainder of the applications were approved (see report). Committee members were, Mrs. Bishop, Mr. Pendry, Mr. Blanks , Mrs. Pleasant and Mr. Ashe. Mrs. Bishop read the report for the record.

Mrs. Bishop presented the following registration report for the period of 8/12/2008 through 10/14/2008. Total registrations 4,041; armed totals were 645 of which 239 were new, 325 were renewals, 4 duplicates and 77 reissue/duals. Unarmed totals were 3,393 which include 1,720 new, 1,523 renewals, 139 transfer and 10 duplicates. Total denials 1,136 of which 559 for cause and 577 for correctable. There were 827 applications approved which were previously denied for a total of 1,963 denials reviewed.

MOTION BY JUDGE BURRIS TO ACCEPT THE SCREENING REPORT AND REGISTRATION REPORT. SECONDED BY MR. BLANKS, MOTION CARRIED.

#### **GRIEVANCE COMMITTEE REPORT:**

Mr. Grimes reported the committee met on Wednesday October 15, 2008 from 9:00 AM. until 12:30 PM. and from 1:30 PM until 3:30 PM to hear a total of fifteen cases. The committee members were Mr. Grimes, Mr. Stevens, Mr. Jenkins and Mr. Donaldson. Mr. Grimes presented the attached report. (see attachment)

Mr. Grimes recused himself from the following complaints, Marcus T. Benson, Travis Borden and Wesley Bates. Mr. Mack Donaldson recused himself from the Edward M. Allen complaint. Sheriff Jenkins recused himself from the Ronnie Dale Smith complaint.

MOTION BY JUDGE BURRIS TO ACCEPT THE GRIEVANCE COMMITTEE REPORT AND TO SEND COPIES OF ALL CEASE AND DESIST LETTERS FROM THIS MEETING TO THE LOCAL DISTRICT ATTORNEYS. SECONDED BY SHERIFF ASHE, MOTION CARRIED.

There was a discussion regarding a blanket policy of sending copies of all Cease and Desist letters to the respective local District Attorneys.

MOTION BY MR. STEVENS TO CONTINUE THE CURRENT POLICY OF SENDING A CEASE AND DESIST TO THE LOCAL DISTRICT ATTORNEY ON A CASE BY CASE BASIS. SECONDED BY SHERIFF JENKINS, MOTION CARRIED.

#### **FINAL AGENCY DECISIONS:**

Attorney McDarris stated that there were no Final Agency Decisions for this Board meeting.

#### TRAINING & EDUCATION COMMITTEE:

Mr. Stevens advised the Training & Education Committee met on Thursday October16, 2008 from 3:30 PM. until 4:30 PM. The committee members were Mr. Stevens, Mr. Booth, Mr. Grimes, Mr. Johnson, Mr. Allen, Mrs. Pleasant.

Mr. Stevens requested that Mr. Pressley present his report to the Board.

Mr. Pressley reported the following classes are scheduled: December 2008 General Trainer Course, WTCC October 2008 Firearms Trainer Re-certification, NCJA

The following PPS trainer courses have been completed: September 2008 Firearms Trainer Certification Course, NCJA

Mr. Pressley stated that the new Firearms Manual has been adopted and that it will be sent to all of the instructors.

The new DVDs have been received which consist of the first four hours of the unarmed guard course.

The unarmed manuals for instructors and students are to be completed soon.

The proposed Armored Car training amendments were discussed with the following comments and recommendations being made:

## I. Section 1 The Armored Car Employee/Security Officer in NC. (1 hour)

This section is not the exact copy of the one approved by the PPS Board and it is recommended that it be exactly what is in section one of the PPS approved unarmed guard training course.

# II. Section 2 Legal Issues for Armored Car Employees/Security Officers in NC. (3 hours)

In this section many items were deleted. In the crimes section the only crimes left in were Larceny (stealing, robbery) and resisting a law enforcement officer. Also, everything concerning detention was removed from this section. Everything concerning use of force and search and seizure was removed, however even with all of the above items removed the block of instruction was kept at 3 hours.

GENERAL RECOMMENDATION IS THAT SECTIONS 1 & 2 REMAIN EXACTLY THE SAME OR THAT THEY COULD BE ALTERED TO MEET THE REQUIREMENTS OF THE NEW ARMORED CAR LICENSE AND REGISTRATION REQUIREMENTS.

## **III. Section 3 New Employee Orientation (3 hours)**

This section deals with company orientation and company guidelines and would not be appropriate for a block of instruction approved by the PPS Board. The vehicle accident section in this block of instruction does not mention NC G.S. 20-166. The section concerning reporting firearms discharges does not mention NC Administrative Code concerning the requirements to report a discharge of firearms.

THE BOARD DID NOT BELIVE THAT A BOARD APPROVED COURSE SHOULD INCLUDE NEW EMPLOYEE ORIENTATION.

# IV. Section 4 Armored Security Operations (3 hours)

This section indicated four training objectives but objective #4 was not discussed in this section and appears to be used as an objective in section 5 and covered in that section. Section 4 also discussed radio procedures but it was not mentioned in the training objectives.

#### V. Section 5 Emergency Situations (2 hours)

This section discusses vehicle accident procedures again as covered in Section 3 but it still fails to mention G.S. 20-166. This section also discusses what happens if the police stop the armored car and search the vehicle. This section says that the police should be requested to sign a manifest. This section also talks about company policy concerning workplace violence.

#### VI. Section 6 Safe Driver Training (3 hours)

This section is listed as a lecture section with no required practical exercises for drivers of armored vehicles. This is another section that deals with accidents (should be called crashes) and reporting procedures. This section talks about seat belt policy and not NC law concerning seat belts.

DISCUSSED ISSUE OF HAVING PRACTICAL INSTRUCTION FOR THIS BLOCK RATHER THAN LECTURE.

#### TEST

One hour given to take test and comply with State and Company Requirements. The State does not require a test, and the 16 hour unarmed guard course presently approved by the Board and the Attorney General does not include testing time.

#### **Discussion Issues**

All issues related to company policy should be removed from the course. This course will be directed to all licensed armored car companies in N.C. so any mention of company policy should be removed and State law concerning issues should be prioritized. Any training concerning what armored car employees should do in the event of a traffic crash should include information found in G.S. 20-166, 20-166.1, and 20-166.2. It is also recommended that any section that deals with driver training include practical training in that area rather than just lecture.

Mr. Stevens reported that the committee had also discussed concerns regarding the requirement that applicants be required to have 300 rounds of practice ammunition for range qualification. The committee also proposed a rule regarding Ballistic Equivalent Ammunition. The following motion is to be sent to The Office of Administrative Hearings.

MOTION BY MR. JOHNSON TO ADD THE LANGUAGE TO 12NCAC07D .0807(e) "ALL APPLICANTS FOR AN ARMED SECURITY GUARD FIREARM REGISTRATION PERMIT MUST OBTAIN TRAINING UNDER THE PROVISIONS OF THIS SECTION USING THEIR DUTY WEAPON AND THEIR DUTY AMMUNITION OR BALLISTIC EQUIVALENT AMMUNITION. BALLISTIC EQUIVALENT AMMUNITION MUST HAVE THE SAME POINT OF AIM, SAME POINT OF IMPACT AND SAME FELT RECOIL AS THE DUTY AMMUNITION." SECONDED BY MRS. PLEASANT, MOTION CARRIED.

There was a question by Mr. Clark regarding the Continuing Education accreditation. Mr. Booth recommended that it be brought back to the December Training and Education meeting to specifically address this and make a recommendation on the NCAPI program.

MOTION BY MR. BLANKS TO APPROVE THE TRAINING AND EDUCATION REPORT, SECONDED BY MRS. BISHOP, MOTION CARRIED.

MOTION BY SHERIFF ASHE TO DEFER NCAPI REQUEST UNTIL THE DECEMBER BOARD MEETING, SECONDED BY MRS. BISHOP, MOTION CARRIED.

# **FINANCE COMMITTEE REPORT - NONE**

#### **GRIEVANCE COMMITTEE REPORT - NONE**

## **SCREENING COMMITTEE REPORT** -

Mr. Wright advised that over the past several months staff has seen quite a few applicants who were requesting to renew their license but had lapses of insurance. During the past few Board meetings, the Board has issued letters of warnings for first time offenses of lapse of insurance. Mr. Wright requested that staff be given the authority to issue a letter of warning for first time offense of lapse of insurance. After receiving a letter of warning, if further violations were to occur, the licensee would be requested to appear before the Screening Committee prior to the license being renewed.

# MOTION BY MR. PENDRY TO APPROVE, SECONDED BY MRS. PLEASANT, MOTION CARRIED.

Mr. Wright advised the Board that staff has received a request from a college intern who is requesting to ride with a private investigator as part of an internship program.

# MOTION BY SHERIFF ASHE TO NOT ALLOW INTERNS TO RIDE ALONG IF THEY ARE NOT LICENSED, SECONDED BY SHERIFF JENKINS

After a discussion about the protocol, the motion was withdrawn.

MOTION BY JUDGE BURRIS THAT THE SPECIFICS REGARDING A RIDE ALONG BE REFERRED BACK TO SCREENING TO ADOPT PROTOCOL FOR THIS ISSUE, SECONDED BY MR. BOOTH, MOTION CARRIED.

MOTION BY JUDGE BURRIS TO APPROVE THE SCREENING COMMITTEE REPORT, SECONDED BY MR. STEVENS, MOTION CARRIED.

#### **DIGITAL FORENSICS REPORT: - NONE**

## **OUT OF STATE COMMITTEE:**

Mr. Donaldson stated that the proposed requirements will be as follows: If an applicant has resided in the state of North Carolina for four years prior to the date of application there will be no record check required. If an applicant has resided outside of the state of North Carolina within the four years prior to the application, they will be required to obtain a record check from an approved third party vendor approved by the Board or if unable to obtain the record, they must obtain it from the appropriate out of state government authority that provides background checks.

The rule change will refer to 12NCAC 07D .0201, .0203, .0701, .0801, .0902.

MOTION BY MR. DONALDSON TO BEGIN THE PROCESS TO CHANGE THE RULE WHILE WORKING ON THE NUMBER OF STATES FROM WHICH WE ARE ABLE TO OBTAIN AN ONLINE CRIMINAL RECORD CHECK. SECONDED BY MR. STEVENS, MAJORITY CARRIED, ONE OPPOSED.

MOTION BY MR. STEVENS TO ACCEPT THE OUT OF STATE COMMITTEE REPORT, SECONDED BY MR. BOOTH, MOTION CARRIED.

## 74C RE-WRITE COMMITTEE:

Judge Burris stated that the Committee met on October 16, 2008 from 3:30 PM to 4:30 PM.

There will be a revised copy of the 74C Re-Write given to the Board at the December meeting. Judge Burris read the sub section 74C-8 which states the revision of sentence two to reflect the change in wording to state that the fingerprint submission will be mandatory for initial applicants however, "the Board MAY require a record check for renewal".

There was a discussion on reformatting 74C, it was determined that the lack of time to initiate Legislative action would not make reformatting feasible at this time.

MOTION BY MR. BOOTH TO ACCEPT THE REPORT, SECONDED BY MR. STEVENS, MOTION CARRIED.

10:45 AM – Break 11:00 AM - Reconvene

#### **OLD BUSINESS:**

Mr. Grimes requested that the Director schedule an appointment with the Attorney General's office to revisit the return of the Recovery Fund money.

#### **NEW BUSINESS:**

Mr. Liggins requested the Board's opinion as to whether Wheel locks are a Private Protective Services function. Mr. McDarris advised that they are not a PPS function.

Mr. Wright also introduced Anthony Bonapart as the new PPS Deputy Director.

# **DIRECTOR'S REPORT:**

Mr. Wright presented his written report. The budget as of 09/01/08 is \$350,773.36 and the recovery fund is \$88,724.13. As of 10/14/08 we have a total of 12,465 PPS registrations, 1,625 licenses, 602 certifications for a total of 14,698 for PPS.

MOTION BY MRS. BISHOP TO ACCEPT THE DIRECTOR'S REPORT, SECONDED BY MR. BURRIS, MOTION CARRIED.

## **ATTORNEY'S REPORT:**

Mr. McDarris presented his report as follows

## Consent Agreements & Civil Penalties:

- 1) Anthony Henderson of Global One Security Consent Agreement of \$4,998.00 for registration violations was to paid in installments. He defaulted on the payments and was reviewed by the Grievance Committee on October 15, 2008.
- 2) Odessa Kimber of Kimber Guard and Patrol Consent Agreement of \$5, 773.20 was issued, She has fallen behind on payments and the matter will be presented to the Grievance Committee in December.
- 3) Eddie Henry with Highlands Country Club Consent Agreement of \$2,978.40 has been executed and paid.
- 4) Curt Escher Consent Agreement for \$1,428.00 has been issued and currently not paid and will be referred back to the appropriate Committee.
- 5) Melvin Black Consent Agreement for \$3,060.00 has been issued and he is current on his installment payments.
- 6) John McGee Consent Agreement for \$918.00 has been executed and paid.
- 7) Pendum, LLC Consent Agreement for \$897.60 has been executed and paid.

#### Office of Administrative Hearings:

See the attachment #1

#### Rules:

Three rules 12 NCAC 7D .0901, .0906 and .0908 have been filed with Rules Review.

Rules 12 NCAC 7D .0301, .0302, .0401, .0402, .0501, .1201 are before you for approval to submit for adoption.

# MOTION BY JUDGE BURRIS TO APPROVE, SECONDED BY MR. STEVENS, MOTION CARRIED.

Rules 12 NCAC 7D .0203, .0707, .0806, .0807, .0202, .0112 will be brought back to the next Board meeting in December for adoption.

#### Miscellaneous:

12 NCAC 7D .0201, .0203, .0701, .0801, .0902 have already been discussed by Mr. Donaldson and have been reviewed by the Board.

12 NCAC 7D .1300 draft of rules to address the Continuing Education is attached for review.

All rules material will be brought back to the December meeting.

#### Final Agency Decisions:

None

# MOTION BY MR. STEVENS TO APPROVE, SECONDED BY JUDGE BURRIS, MOTION CARRIED.

Chairman Allen requested any other business at this time and the following was addressed. Mr. Wright re-addressed the Polygraph changes (see attached). This is the language that was presented to PPS from the Polygraph representatives at the April Board meeting. The attached shows the proposed changes to the rule and additions to the rule. After discussion, it was determined that there should be an across the board consistency in the amount of Continuing Education hours. Number 3, subsection D states 20 hours whereas all other Continuing Education states 12 hours.

MOTION BY MR. JOHNSON TO SEND THIS PACKAGE ON TO RULES REVIEW WITH THE CHANGE TO REDUCE THE HOURS FROM TWENTY TO TWELVE HOURS. SECONDED BY MRS. PLEASANT, MOTION CARRIED.

MOTION BY MR. BLANKS FOR PROVISION 143-318.11(a)(3) TO GO INTO CLOSED SESSION, SECONDED BY MR. BOOTH, MOTION CARRIED.

# MOTION BY JUDGE BURRIS TO COME OUT OF CLOSED SESSION, SECONDED BY MRS. BISHOP, MOTION CARRIED.

Mr. McDarris stated that two matters were discussed in closed session. There was an update on the David Shelton case. The possible lawsuit on the Recovery Fund to recover the funds that were previously taken.

The Board discussed changing the Statute so that the Recovery Fund would become an Educational Fund. This could be accomplished through the 74C Rewrite Committee and must be adopted through the General Assembly. The other action would be to pass a resolution to convert the excess funds to Education. The provision would require that you can justify the conversion. Financial Services would need to assign a new line item number for an education fund.

MOTION BY MR. PENDRY TO MOVE ALL MONIES OVER \$50,000.00 TO THE NEW LINE ITEM AND TO DRAFT A RESOLUTION WITH FINDINGS OF FACT. SECONDED BY MR. BOOTH, CARRIED UNANIMOUSLY.

MOTION BY MR. BOOTH TO CHANGE THE NAME OF THE RECOVERY FUND TO THE EDUCATION FUND AND SEND IT TO THE 74C REWRITE COMMITTEE. SECONDED BY MR. GRIMES, CARRIED UNANIMOUSLY.

The issue of monies that were taken in the past, was discussed and it was determined that there should be a meeting with the Governor's Office, State Budget and the Attorney General's Office to discuss a letter of intent.

MOTION BY MR. GRIMES TO HAVE ALL THREE ENTITIES IN A MEETING TO DISCUSS THE LETTER, SECONDED BY MR. JOHNSON, MOTION CARRIED.

Further discussion arose on the timing of the meeting, keeping the issue alive and keeping the meeting informative.

AMENDED MOTION BY MR. GRIMES TO SCHEDULE THIS MEETING IN FEBRUARY 2009. SECONDED BY MR. JOHNSON, MOTION CARRIED.

MOTION TO ADJOURN BY MR. PENDRY. SECONDED BY MR. JOHNSON, MOTION CARRIED.

Terry M. Wright
Director

Joyce McClure
Board Secretary

Adjourned at 12:10 P.M.